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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

October 4, 2002

GENEVIEVE MORELLI
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EX PARTE OR LATE FILED

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On October 2, 2002, Joseph Gillan and the undersigned, representing the Promoting Active Competition Everywhere ("PACE") Coalition, met with Rob Tanner, Claudia Pabo, Tom Navin, Daniel Shiman, Michael Engel, Aaron Goldberger, and Gina Spade of the Wireline Competition Bureau to discuss the position of the PACE Coalition regarding the future availability of local switching as an unbundled network element. The attached documents were distributed at the meeting.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this letter and attachment is being filed with your office.

Sincerely,

Genevieve Morelli

cc: Rob Tanner
Tom Navin
Claudia Pabo
Daniel Shiman
Michael Engel
Gina Spade
Aaron Goldberger

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The PACE Coalition

CC Docket No. 01-338
October 2, 2002

The State Role

* Federal unbundling rules must recognize the importance of State Commissions and the interplay between federal and State policies on local competition and regulation.

* State Commissions are uniquely positioned to evaluate local conditions, applying procedures (such as discovery and cross-examination) not available to the FCC.

* State laws/regulations frequently include unbundling provisions as part of pricing flexibility plans.

* *USTA* suggests a fact-specific UNE review only State Commissions are equipped to conduct.

The State Role

* States should be permitted to add to the national minimum list of network elements based on an independent evaluation of local conditions under federal rules or in accordance with State laws.

* The States should have an opportunity to evaluate any "new" national list of unbundled network elements (if less than the existing list) to determine whether any lowered minimum is appropriate in their State.

UNE-P is Not a Substitute for UNE-L

* UNE-P and UNE-L fundamentally serve different geographic, customer and product markets.

* UNE-P is essential to competition for analog residential and business customers, where product ubiquity and transactions costs are critical.

    * Manual "hot cut" process is not compatible with the scale and customer expectations of the mass market.

* UNE-L is primarily used to compete in a different product market – offering higher speed digital services to larger customers.

The Relationship Between UNE-P and UNE-L

Model 1 Regression Statistics

Multiple R	0.8367		
R Square	0.7001		
Adjusted R Square	0.6960		
Observations	221		
F Statistic	168.9		
Variable	Coefficients	t Stat	p value
Intercept	-6,353.0	-1.56	0.1193
UNE-P	0.0580	4.24	0.0000
End User Lines	0.0177	12.71	0.0000
Resale	-0.0232	-0.39	0.6966

Model 2 Regression Results

Multiple R	0.8724		
R Square	0.7611		
Adjusted R Square	0.7532		
Observations	221		
F Statistic	96.9		
Variable	Coefficients	t Stat	p-value
Intercept	-35,034	-5.72	0.0000
UNE-P	0.0377	2.97	0.0033
End User Lines	0.0175	13.80	0.0000
Resale	0.0217	0.40	0.6927
Jun-00	14,068	1.76	0.0806
Dec-00	28,113	3.47	0.0006
Jun-01	41,797	5.22	0.0000
Dec-01	52,295	6.61	0.0000

The Relationship Between UNE-P and UNE-L

Model 3 Regression Results

Multiple R	0.8759		
R Square	0.7673		
Adjusted R Square	0.7562		
Observations	221		
F Statistic	69.2		
Variable	Coefficients	t Stat	P-value
Intercept	-28,073	-3.48	0.0006
UNE-P	0.0361	2.80	0.0056
End User Lines	0.0172	13.51	0.0000
Resale	0.0145	0.25	0.7990
Jun-00	14,915	1.86	0.0643
Dec-00	29,349	3.60	0.0004
Jun-01	42,668	5.32	0.0000
Dec-01	52,480	6.66	0.0000
BellSouth	-15,615	-1.89	0.0607
Qwest	-8,764	-1.11	0.2676
SBC	179	0.02	0.9814

Conclusion:

The evidence does not support the view that switch unbundling discourages switch deployment.

UNE-P Supports Broad Geographic Competition

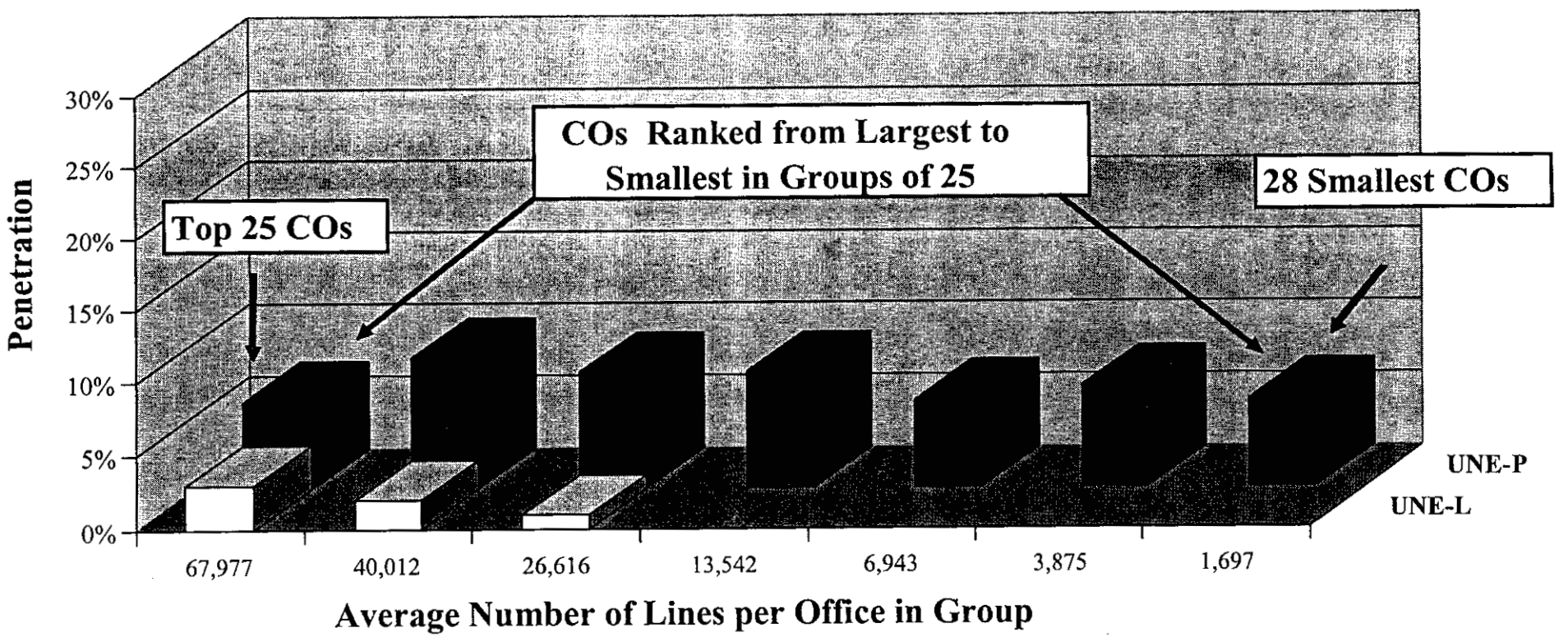
* UNE-P extends competition beyond the urban core.

* UNE-P is able to extend competition to higher-cost suburban and rural markets because it also competes in urban markets.

    * More than 1/2 of the UNE-P lines in Texas are in end offices located in the top 100 wire centers.

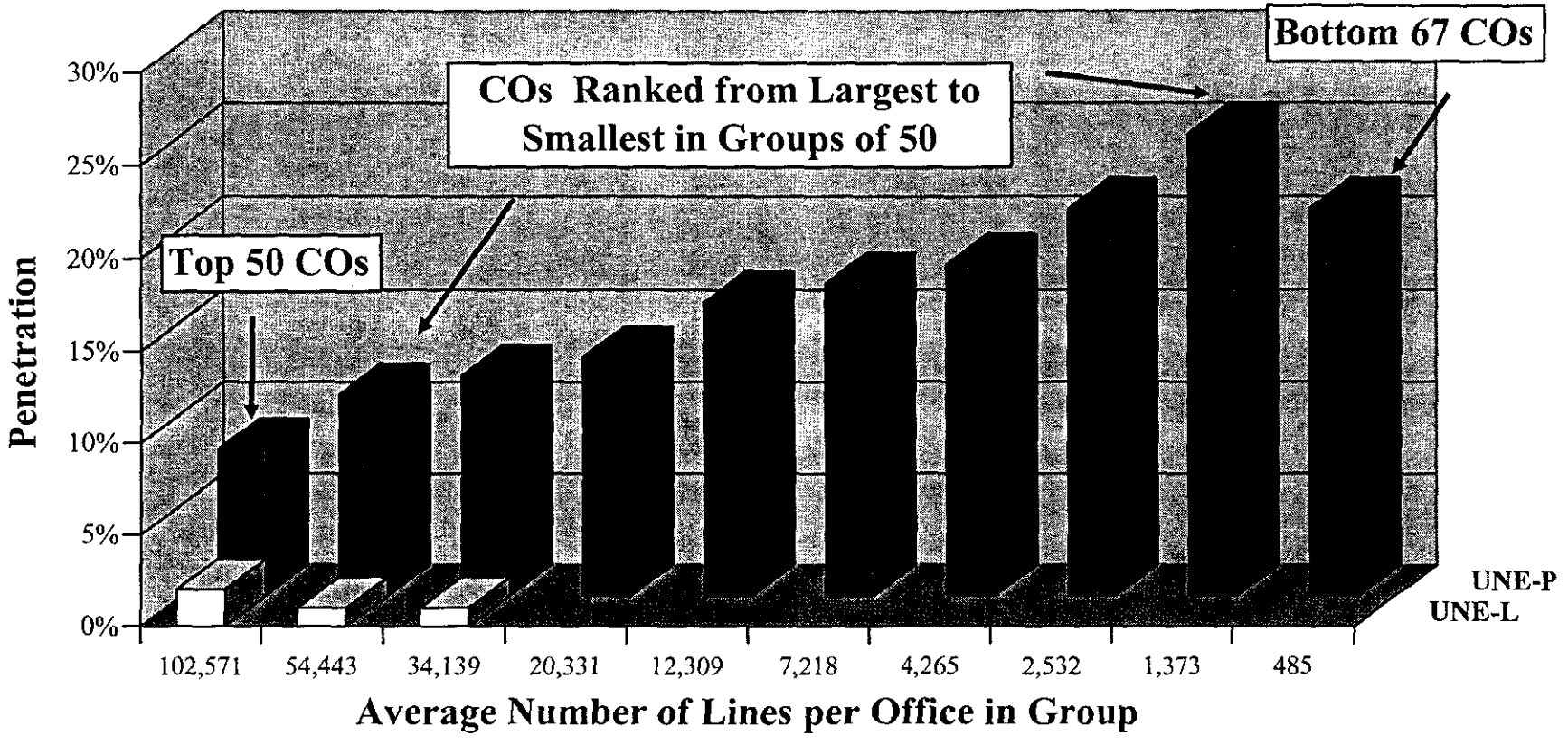
    * More than 2/3rds of the UNE-P lines in Georgia are in end offices located in the top 50 wire centers.

UNE-P Distribution
Georgia 2002[1]



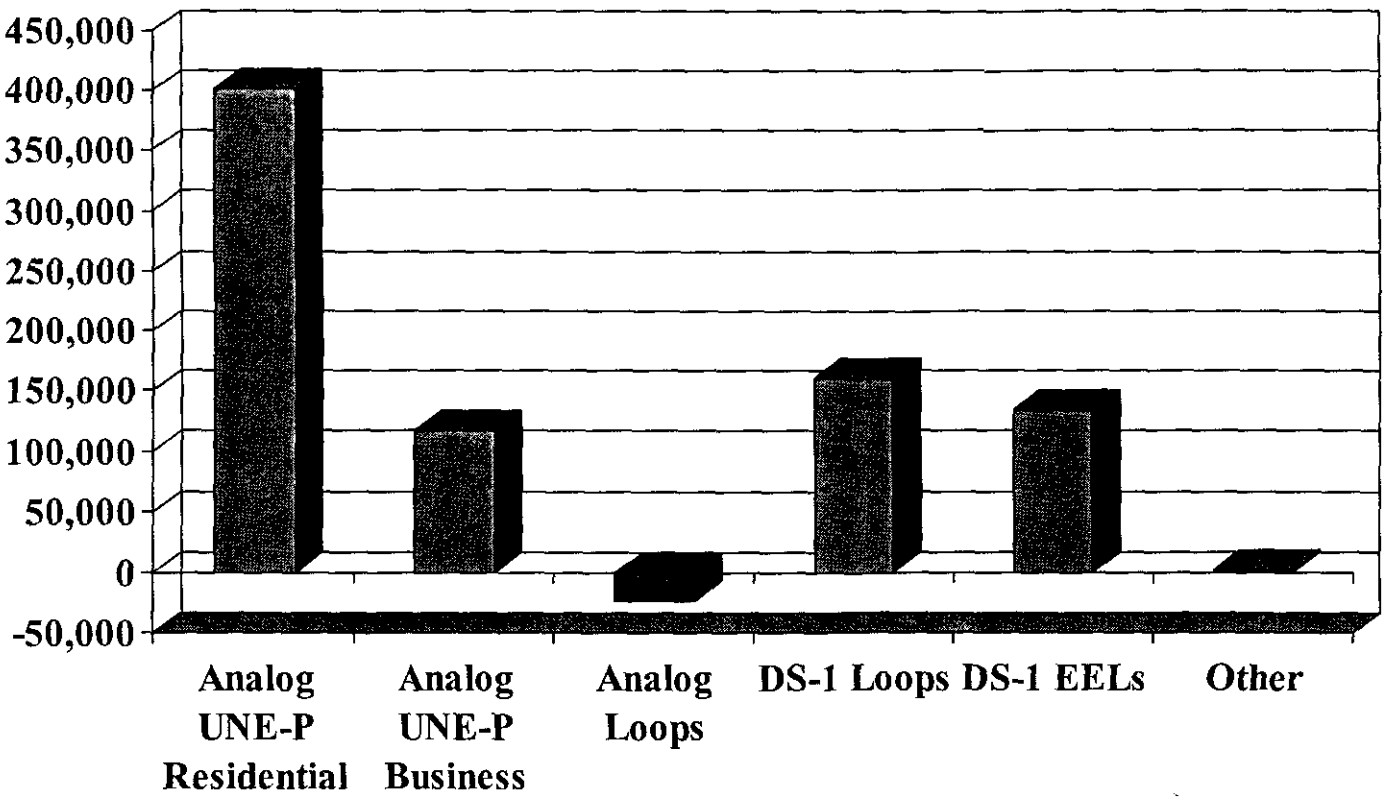
1 Source: Georgia Public Service Commission Docket 14361-U.

UNE-P Distribution
Texas – October 2001[2]



[2] Source: Texas Public Utility Commission Docket 24542.

The UNE Market
(CLEC Lines Added – BellSouth 2002)[3]



[3] Source: North Carolina Public Service Commission Docket P-100, Sub 133d.

Summary of Market Evidence

* UNE-P is essential to competition for traditional analog customers, whether residential or small business.

* UNE-L competition for larger digital customers requires access to UNE DS-1 loops and EELs.

* Because UNE-L and UNE-P are fundamentally used to compete in different markets:

    * Switch unbundling does not discourage switch investment.

    * Statistics on the number of CLEC switches do not rebut the need for switch unbundling.

ILEC Claims of Financial Harm are Inaccurate and Irrelevant

* Warburg Study seriously understates UNE-P revenues the ILEC receives and retail cost savings associated with reduced demand.

* UNE-P provides the highest return to the ILEC of any entry strategy.

    * If UNE-P lines were migrated to UNE-L, the financial effect on the ILEC would be much greater.

    * If UNE-P lines were migrated to CLEC facilities entirely, the effect would be greater still.

Comparison of Avoided Cost Estimates

	Warburg	State Commissions[4]
SBC	6.8%	18.3%
Verizon	6.4%	21.7%
BellSouth	6.0%	20.2%
Qwest	6.8%	16.0%
National Average	6.5%	19.3%

[4] State Commission estimates are the residential resale discounts established by State Commissions as reported by Warburg.

How Much Less Competition to Make ILECs Whole?

		CCM UNE Rates		Lost Margin	
	Retail	**UNE-P**	**UNE-L**	**UNE-P**	**UNE-L**
Verizon	$32.99	$20.23	$12.93	$12.76	$20.06
BellSouth	$36.72	$24.38	$15.42	$12.34	$21.30
SBC	$34.25	$17.50	$11.03	$16.75	$23.22
Qwest	$33.06	$23.97	$16.60	$9.09	$16.46

	UNE-P Lines (Dec-01)	**UNE-L Lines Same Net Loss**	**Competitive Reduction**
Verizon	2,192,076	1,394,355	-36.4%
BellSouth	619,078	358,658	-42.1%
SBC	2,385,375	1,720,834	-27.9%
Qwest	461,080	254,679	-44.8%

220 ILCS 5 Illinois Public Utilities Act

Sec. 13-801. Incumbent local exchange carrier obligations.

(a) This Section provides additional State requirements contemplated by, but not inconsistent with, Section 261(c) of the federal Telecommunications Act of 1996, and not preempted by orders of the Federal Communications Commission. A telecommunications carrier not subject to regulation under an alternative regulation plan pursuant to Section 13-506.1 of this Act shall not be subject to the provisions of this Section, to the extent that this Section imposes requirements or obligations upon the telecommunications carrier that exceed or are more stringent than those obligations imposed by Section 251 of the federal Telecommunications Act of 1996 and regulations promulgated thereunder.

An incumbent local exchange carrier shall provide a requesting telecommunications carrier with interconnection, collocation, network elements, and access to operations support systems on just, reasonable, and nondiscriminatory rates, terms, and conditions to enable the provision of any and all existing and new telecommunications services within the LATA, including, but not limited to, local exchange and exchange access. The Commission shall require the incumbent local exchange carrier to provide interconnection, collocation, and network elements in any manner technically feasible to the fullest extent possible to implement the maximum development of competitive telecommunications services offerings. As used in this Section, to the extent that interconnection, collocation, or network elements have been deployed for or by the incumbent local exchange carrier or one of its wireline local exchange affiliates in any jurisdiction, it shall be presumed that such is technically feasible in Illinois.

(b) Interconnection.

(1) An incumbent local exchange carrier shall provide for the facilities and equipment of any requesting telecommunications carrier's interconnection with the incumbent local exchange carrier's network on just, reasonable, and nondiscriminatory rates, terms, and conditions:

(A) for the transmission and routing of local exchange, and exchange access telecommunications services;

(B) at any technically feasible point within the incumbent local exchange carrier's network; however, the incumbent local exchange carrier may not require the requesting carrier to interconnect at more than one technically feasible point within a LATA; and

(C) that is at least equal in quality and functionality to that provided by the incumbent local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the incumbent local exchange carrier provides interconnection.

(2) An incumbent local exchange carrier shall make available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or interconnection agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in

accordance with the requirements of subsection (g) of this Section. An incumbent local exchange carrier shall also make available to any requesting telecommunications carrier, to the extent technically feasible, and subject to the unbundling provisions of Section 251(d)(2) of the federal Telecommunications Act of 1996, those unbundled network element or interconnection agreements or arrangements that a local exchange carrier affiliate of the incumbent local exchange carrier obtains in another state from the incumbent local exchange carrier in that state, under the terms and conditions, but not the stated rates, obtained through negotiation, or through an arbitration initiated by the affiliate, pursuant to Section 252 of the federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section.

(c) Collocation. An incumbent local exchange carrier shall provide for physical or virtual collocation of any type of equipment for interconnection or access to network elements at the premises of the incumbent local exchange carrier on just, reasonable, and nondiscriminatory rates, terms, and conditions. The equipment shall include, but is not limited to, optical transmission equipment, multiplexers, remote switching modules, and cross-connects between the facilities or equipment of other collocated carriers. The equipment shall also include microwave transmission facilities on the exterior and interior of the incumbent local exchange carrier's premises used for interconnection to, or for access to network elements of, the incumbent local exchange carrier or a collocated carrier, unless the incumbent local exchange carrier demonstrates to the Commission that it is not practical due to technical reasons or space limitations. An incumbent local exchange carrier shall allow, and provide for, the most reasonably direct and efficient cross-connects, that are consistent with safety and network reliability standards, between the facilities of collocated carriers. An incumbent local exchange carrier shall also allow, and provide for, cross connects between a noncollocated telecommunications carrier's network elements platform, or a noncollocated telecommunications carrier's transport facilities, and the facilities of any collocated carrier, consistent with safety and network reliability standards.

(d) Network elements. The incumbent local exchange carrier shall provide to any requesting telecommunications carrier, for the provision of an existing or a new telecommunications service, nondiscriminatory access to network elements on any unbundled or bundled basis, as requested, at any technically feasible point on just, reasonable, and nondiscriminatory rates, terms, and conditions.

(1) An incumbent local exchange carrier shall provide unbundled network elements in a manner that allows requesting telecommunications carriers to combine those network elements to provide a telecommunications service.

(2) An incumbent local exchange carrier shall not separate network elements that are currently combined, except at the explicit direction of the requesting carrier.

(3) Upon request, an incumbent local exchange carrier shall combine any sequence of unbundled network elements that it ordinarily combines for itself, including but not limited to, unbundled network elements identified in The Draft of the Proposed

Ameritech Illinois 271 Amendment (I2A) found in Schedule SJA-4 attached to Exhibit 3.1 filed by Illinois Bell Telephone Company on or about March 28, 2001 with the Illinois Commerce Commission under Illinois Commerce Commission Docket Number 00-0700. The Commission shall determine those network elements the incumbent local exchange carrier ordinarily combines for itself if there is a dispute between the incumbent local exchange carrier and the requesting telecommunications carrier under this subdivision of this Section of this Act.

The incumbent local exchange carrier shall be entitled to recover from the requesting telecommunications carrier any just and reasonable special construction costs incurred in combining such unbundled network elements (i) if such costs are not already included in the established price of providing the network elements, (ii) if the incumbent local exchange carrier charges such costs to its retail telecommunications end users, and (iii) if fully disclosed in advance to the requesting telecommunications carrier. The Commission shall determine whether the incumbent local exchange carrier is entitled to any special construction costs if there is a dispute between the incumbent local exchange carrier and the requesting telecommunications carrier under this subdivision of this Section of this Act.

(4) A telecommunications carrier may use a network elements platform consisting solely of combined network elements of the incumbent local exchange carrier to provide end to end telecommunications service for the provision of existing and new local exchange, interexchange that includes local, local toll, and intraLATA toll, and exchange access telecommunications services within the LATA to its end users or payphone service providers without the requesting telecommunications carrier's provision or use of any other facilities or functionalities.

(5) The Commission shall establish maximum time periods for the incumbent local exchange carrier's provision of network elements. The maximum time period shall be no longer than the time period for the incumbent local exchange carrier's provision of comparable retail telecommunications services utilizing those network elements. The Commission may establish a maximum time period for a particular network element that is shorter than for a comparable retail telecommunications service offered by the incumbent local exchange carrier if a requesting telecommunications carrier establishes that it shall perform other functions or activities after receipt of the particular network element to provide telecommunications services to end users. The burden of proof for establishing a maximum time period for a particular network element that is shorter than for a comparable retail telecommunications service offered by the incumbent local exchange carrier shall be on the requesting telecommunications carrier. Notwithstanding any other provision of this Article, unless and until the Commission establishes by rule or order a different specific maximum time interval, the maximum time intervals shall not exceed 5 business days for the provision of unbundled loops, both digital and analog, 10 business days for the conditioning of unbundled loops or for existing combinations of network elements for an end user that has existing local exchange telecommunications service, and one business day for the provision of the high frequency portion of the loop (line-sharing) for at least 95% of the

requests of each requesting telecommunications carrier for each month.

In measuring the incumbent local exchange carrier's actual performance, the Commission shall ensure that occurrences beyond the control of the incumbent local exchange carrier that adversely affect the incumbent local exchange carrier's performance are excluded when determining actual performance levels. Such occurrences shall be determined by the Commission, but at a minimum must include work stoppage or other labor actions and acts of war. Exclusions shall also be made for performance that is governed by agreements approved by the Commission and containing timeframes for the same or similar measures or for when a requesting telecommunications carrier requests a longer time interval.

(6) When a telecommunications carrier requests a network elements platform referred to in subdivision (d)(4) of this Section, without the need for field work outside of the central office, for an end user that has existing local exchange telecommunications service provided by an incumbent local exchange carrier, or by another telecommunications carrier through the incumbent local exchange carrier's network elements platform, unless otherwise agreed by the telecommunications carriers, the incumbent local exchange carrier shall provide the requesting telecommunications carrier with the requested network elements platform within 3 business days for at least 95% of the requests for each requesting telecommunications carrier for each month. A requesting telecommunications carrier may order the network elements platform as is for an end user that has such existing local exchange service without changing any of the features previously selected by the end user. The incumbent local exchange carrier shall provide the requested network elements platform without any disruption to the end user's services.

Absent a contrary agreement between the telecommunications carriers entered into after the effective date of this amendatory Act of the 92nd General Assembly, as of 12:01 a.m. on the third business day after placing the order for a network elements platform, the requesting telecommunications carrier shall be the presubscribed primary local exchange carrier for that end user line and shall be entitled to receive, or to direct the disposition of, all revenues for all services utilizing the network elements in the platform, unless it is established that the end user of the existing local exchange service did not authorize the requesting telecommunications carrier to make the request.

(e) Operations support systems. The Commission shall establish minimum standards with just, reasonable, and nondiscriminatory rates, terms, and conditions for the preordering, ordering, provisioning, maintenance and repair, and billing functions of the incumbent local exchange carrier's operations support systems provided to other telecommunications carriers.

(f) Resale. An incumbent local exchange carrier shall offer all retail telecommunications services, that the incumbent local exchange carrier provides at retail to subscribers who are not telecommunications carriers, within the LATA, together with each applicable optional feature or functionality, subject to resale at wholesale rates without imposing any unreasonable or discriminatory conditions or limitations. Wholesale rates shall be based on the retail rates charged to end users for the telecommunications service requested, excluding the portion

thereof attributable to any marketing, billing, collection, and other costs avoided by the local exchange carrier. The Commission may determine under Article IX of this Act that certain noncompetitive services, together with each applicable optional feature or functionality, that are offered to residence customers under different rates, charges, terms, or conditions than to other customers should not be subject to resale under the rates, charges, terms, or conditions available only to residence customers.

(g) Cost based rates. Interconnection, collocation, network *elements, and operations support systems shall be provided* by the incumbent local exchange carrier to requesting telecommunications carriers at cost based rates. The immediate implementation and provisioning of interconnection, collocation, network elements, and operations *support systems shall not be delayed due to any lack of* determination by the Commission as to the cost based rates. When cost based rates have not been established, within 30 days after the filing of a petition for the setting of interim rates, or after the Commission's own motion, the Commission shall provide for interim rates that shall remain in full force and effect until the cost based rate determination is made, or the interim rate is modified, by the Commission.

(h) Rural exemption. This Section does not apply to certain rural telephone companies as described in 47 U.S.C. 251(f).

(i) Schedule of rates. A telecommunications carrier may request the incumbent local exchange carrier to provide a schedule of rates listing each of the rate elements of the incumbent local exchange carrier that pertains to a proposed order identified by the requesting telecommunications carrier for any of the matters covered in this *Section. The incumbent local* exchange carrier shall deliver the requested schedule of rates to the requesting telecommunications carrier within 2 business days for 95% of the requests for each requesting carrier

(j) *Special access circuits. Other than as provided in subdivision* (d)(4) of this Section for the network elements platform described in that subdivision, nothing in this amendatory Act of the 92nd General Assembly is intended to require or prohibit the substitution of switched or special access services by or with a combination of network elements nor address the Illinois Commerce Commission's jurisdiction or authority in this area.

(k) The Commission shall determine any matters in dispute between the incumbent local exchange carrier and the requesting carrier pursuant to Section 13-515 of this Act.

The 2001 Florida Statutes

Title XXVII Railroads And Other Regulated Utilities | **Chapter 364** Telecommunications Companies | **View Entire Chapter**

364.161 Unbundling and resale.--

(1) Upon request, each local exchange telecommunications company shall unbundle all of its network features, functions, and capabilities, including access to signaling databases, systems and routing processes, and offer them to any other telecommunications provider requesting such features, functions or capabilities for resale to the extent technically and economically feasible. The parties shall negotiate the terms, conditions, and prices of any feasible unbundling request. If the parties cannot reach a satisfactory resolution within 60 days, either party may petition the commission to arbitrate the dispute and the commission shall make a determination within 120 days. In no event, however, shall the local exchange telecommunications company be required to offer such unbundled services, network features, functions or capabilities, or unbundled local loops at prices that are below cost. The prices, rates, terms, and conditions for the unbundled services shall be established by the procedure set forth in s. 364.162 and shall be equally applicable to both the local exchange telecommunications company and its affiliates in the provision of their own service, until such time as the local exchange telecommunications company petitions the commission and the commission determines otherwise, but in no event prior to July 1, 1999.

(2) Other than ensuring that the resale is of the same class of service, no local exchange telecommunications company may impose any restrictions on the resale of its services or facilities except those the commission may determine are reasonable. The local exchange telecommunications company's currently tariffed, flat-rated, switched residential and business services shall not be required to be resold until the local exchange telecommunications company is permitted to provide inter-LATA services and video programming, but in no event before July 1, 1997. In no event shall the price of any service provided for resale be below cost.

(3) Only after an alternative local exchange telecommunications company has been determined to be a carrier of last resort shall such company, upon request by another telecommunications provider, be required, for purposes of resale, to unbundle its local exchange services, network features, functions and capabilities, including its local loop, to the extent such unbundling is technically and economically feasible. The parties shall negotiate the terms, conditions, and prices of any feasible unbundling request. If the parties cannot reach a satisfactory resolution within 60 days, either party may petition the commission to arbitrate the dispute and the commission shall make a determination within 120 days. The prices shall not be below cost.

(4) A local exchange telecommunications company shall provide unbundled network elements, services for resale, requested repairs, and necessary support services in a timely manner. The Public Service Commission shall maintain a file of all complaints by alternative local exchange telecommunications companies against local exchange telecommunications companies regarding timeliness and adequacy of service. This information, including how and when each complaint was resolved, shall be included with the commission's annual report to the Legislature on competition.

History.--s. 15, ch. 95-403; s. 9, ch. 98-277.

The 2001 Florida Statutes

Title XXVII	Chapter 364	View Entire Chapter
Railroads And Other Regulated Utilities	Telecommunications Companies	

364.051 Price regulation.--

(1) SCHEDULE.--Notwithstanding any other provisions of this chapter, the following local exchange telecommunications companies shall become subject to the price regulation described in this section on the following dates:

(a) For a local exchange telecommunications company with 100,000 or more access lines in service as of July 1, 1995, such company may file with the commission a notice of election to be under price regulation effective January 1, 1996, or when an alternative local exchange telecommunications company is certificated to provide local exchange telecommunications services in its service territory, whichever is later.

(b) Effective on the date of filing its election with the commission, but no sooner than January 1, 1996, any local exchange telecommunications company with fewer than 100,000 access lines in service on July 1, 1995, that elects pursuant to s. 364.052 to become subject to this section.

(c) Each company subject to this section shall be exempt from rate base, rate of return regulation and the requirements of ss. 364.03, 364.035, 364.037, 364.05, 364.055, 364.14, 364.17, and 364.18.

(2) BASIC LOCAL TELECOMMUNICATIONS SERVICE.--Price regulation of basic local telecommunications service shall consist of the following:

(a) Effective January 1, 1996, the rates for basic local telecommunications service of each company subject to this section shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000. However, the basic local telecommunications service rates of a local exchange telecommunications company with more than 3 million basic local telecommunications service access lines in service on July 1, 1995, shall not be increased prior to January 1, 2001.

(b) Upon the date of filing its election with the commission, the rates for basic local telecommunications service of a company that elects to become subject to this section shall be capped at the rates in effect on that date and shall remain capped as stated in paragraph (a).

(c) There shall be a flat-rate pricing option for basic local telecommunications services, and mandatory measured service for basic local telecommunications services shall not be imposed.

(3) In the event that it is determined that the level of competition justifies the elimination of price caps in an exchange served by a local exchange telecommunications company with less than 3 million basic local telecommunications service access lines in service, or at the end of 5 years for any local exchange telecommunications company, the local exchange telecommunications company may thereafter on 30 days' notice adjust its basic service prices once in any 12-month period in an amount not to exceed the change in inflation less 1 percent. Inflation shall be measured by the changes in the Gross Domestic Product Fixed 1987 Weights Price Index, or successor fixed weight price index, published in the Survey of Current Business or a publication,

by the United States Department of Commerce. In the event any local exchange telecommunications company, after January 1, 2001, believes that the level of competition justifies the elimination of any form of price regulation, the company may petition the Legislature.

(4) Notwithstanding the provisions of subsection (2), any local exchange telecommunications company that believes circumstances have changed substantially to justify any increase in the rates for basic local telecommunications services may petition the commission for a rate increase, but the commission shall grant such petition only after an opportunity for a hearing and a compelling showing of changed circumstances. The costs and expenses of any government program or project required in part II shall not be recovered under this subsection unless such costs and expenses are incurred in the absence of a bid and subject to carrier-of-last-resort obligations as provided for in part II. The commission shall act upon any such petition within 120 days of its filing.

(5) NONBASIC SERVICES.--Price regulation of nonbasic services shall consist of the following:

(a) Each company subject to this section shall maintain tariffs with the commission containing the terms, conditions, and rates for each of its nonbasic services, and may set or change, on 15 days' notice, the rate for each of its nonbasic services, except that a price increase for any nonbasic service category shall not exceed 6 percent within a 12-month period until there is another provider providing local telecommunications service in an exchange area at which time the price for any nonbasic service category may be increased in an amount not to exceed 20 percent within a 12-month period, and the rate shall be presumptively valid. However, for purposes of this subsection, the prices of:

1. A voice-grade, flat-rate, multi-line business local exchange service, including multiple individual lines, centrex lines, private branch exchange trunks, and any associated hunting services, that provides dial tone and local usage necessary to place a call within a local exchange calling area; and

2. Telecommunications services provided under contract service arrangements to the SUNCOM Network, as defined in chapter 282,

shall be capped at the rates in effect on July 1, 1995, and such rates shall not be increased prior to January 1, 2000; provided, however, that a petition to increase such rates may be filed pursuant to subsection (4) utilizing the standards set forth therein. There shall be a flat-rate pricing option for multi-line business local exchange service, and mandatory measured service for multi-line business local exchange service shall not be imposed. Nothing contained in this section shall prevent the local exchange telecommunications company from meeting offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer by deaveraging the price of any nonbasic service, packaging nonbasic services together or with basic services, using volume discounts and term discounts, and offering individual contracts. However, the local exchange telecommunications company shall not engage in any anticompetitive act or practice, nor unreasonably discriminate among similarly situated customers.

(b) The commission shall have continuing regulatory oversight of nonbasic services for purposes of ensuring resolution of service complaints, preventing cross-subsidization of nonbasic services with revenues from basic services, and ensuring that all providers are treated fairly in the telecommunications market. The cost standard for determining cross-subsidization is whether the total revenue from a nonbasic service is less than the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

(c) The price charged to a consumer for a nonbasic service shall cover the direct costs of providing the service and shall, to the extent a cost is not included in the direct cost, include as an imputed cost the price charged by the company to competitors for any monopoly component used by a competitor in the provision of its same or functionally equivalent service.

History.--s. 9, ch. 95-403; s. 8, ch. 98-277; s. 3, ch. 2000-334.

Comparing UNE-P Costs
Warburg vs. Commerce Capital Markets[1]

State/Region	Estimated UNE-P Cost/Line		Percent Difference
	Warburg	CCM[2]	
Delaware	$16.03	$20.81	30%
Maryland	$18.82	$26.25	40%
New Jersey	$12.61	$15.14	20%
West Virginia	$26.50	$44.02	66%
Pennsylvania	$15.11	$19.23	27%
Virginia	$17.07	$21.85	28%
Maine	$15.34	$22.07	44%
Massachusetts	$15.09	$25.42	68%
New Hampshire	$25.54	$24.51	(4%)
New York	$12.33	$17.17	39%
Rhode Island	$27.46	$19.70	(28%)
Vermont	$13.85	$24.99	80%
Verizon Average	**$15.10**	**$20.24**	**34%**
Alabama	$22.82	$23.55	3%
Florida	$16.69	$25.21	51%
Georgia	$18.79	$23.83	27%
Kentucky	$15.12	$25.08	66%
Louisiana	$23.08	$25.37	10%
Mississippi	$21.77	$29.82	37%
North Carolina	$18.69	$23.09	24%
South Carolina	$19.43	$24.58	27%
Tennessee	$17.18	$20.88	22%
BellSouth Average	**$18.43**	**$24.38**	**32%**
Illinois	$8.92	$15.81	77%
Indiana	$17.07	$12.05	(29%)

[1] Source: Exhibits to The Status of 271 and UNE-Platform in the Regional Bells' Territories, Commerce Capital Markets, August 22, 2002.

[2] Although CCM's UNE-P cost estimates are more reliable than those of Warburg overall, there are a number of reasons that these estimates would understate a CLEC's actual UNE-P costs, particularly in the residential market. First, the CCM estimate is based on an ILEC's average usage overall (for business and residential customers), and not the generally higher usage associated with residential customers. Second, the CCM estimates do not include charges for OS and DA that are required as part of UNE-P, nor is it clear that CCM fully includes ILEC charges for local calling records.

State/Region	Estimated UNE-P Cost/Line		Percent Difference
	Warburg	CCM[2]	
Michigan	$12.74	$14.50	14%
Ohio	$14.41	$14.93	4%
Wisconsin	$19.68	$23.85	21%
California	$11.68	$15.46	32%
Nevada	$21.17	$30.63	45%
Arkansas	$16.57	$19.96	20%
Kansas	$16.39	$19.60	20%
Missouri	$19.37	$22.72	17%
Oklahoma	$18.45	$25.03	36%
Texas	$17.91	$21.22	18%
SBC Average	**$14.50**	**$17.48**	**21%**
Arizona	$28.10	$24.98	(11%)
Colorado	$12.88	$22.38	74%
Idaho	$22.44	$26.82	20%
Iowa	$17.15	$23.45	37%
Minnesota	$13.45	$25.02	86%
Montana	$27.34	$34.64	27%
Nebraska	$25.19	$36.62	45%
New Mexico	$21.74	$26.29	21%
North Dakota	$22.90	$28.44	24%
Oregon	$20.66	$22.29	8%
South Dakota	$23.54	$31.71	35%
Utah	$19.45	$20.54	6%
Washington	$10.72	$20.77	94%
Wyoming	$28.26	$32.02	13%
Qwest Average	**$18.33**	**$24.20**	**32%**
National Average	**$15.93**	**$20.45**	**28%**